

**ENTERED**

August 08, 2019

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION**

KEITH H. WASHINGTON,

Plaintiff,

VS.

BRYAN COLLIER, *et al*,

Defendants.

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CIVIL NO. 2:18-CV-221

**ORDER**

The Court is in receipt of the Magistrate Judge's Memorandum and Recommendation ("M&R") to Dismiss Case, Dkt. No. 65, and Plaintiff's Objections to the M&R, Dkt. No. 67.

Plaintiff Keith H. Washington is a prisoner in the Texas Department of Criminal Justice, Criminal Institutions Division ("TDCJ-CID") and is assigned to the McConnell Unit in Beeville, Texas. Plaintiff is appearing *pro se* and *in forma pauperis*. On August 1, 2018, he filed this prisoner civil rights action pursuant to 42 U.S.C. § 1983, asserting claims under the Eighth Amendment, the American with Disabilities Act ("ADA"), 42 U.S.C. § 12112(b)(5)(A), and the Rehabilitation Act ("RA"), 29 U.S.C. § 794. His claims stem from allegations of deliberate indifference to his health based on extreme heat conditions in both his cell and cell block.

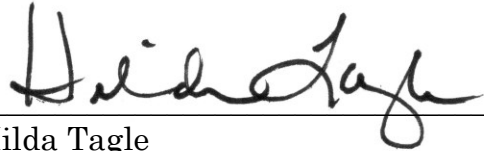
After independently reviewing the filings, the record, and applicable law, the Court **ADOPTS** the M&R, Dkt. No. 65. Accordingly, the Court **DENIES** Plaintiff's request to proceed as a class action; **DISMISSES WITHOUT PREJUDICE** Plaintiff's claims against Senior Warden Jeffrey Richardson, Senior Warden Michael Butcher, Captain Norma Smith, Lieutenant D. Wallace, and Correctional Officer Yakeen; **DISMISSES WITH PREJUDICE** Plaintiff's claims for money damages against all individual Defendants, to the extent they are sued in their official capacities, as barred by the Eleventh Amendment; and **DISMISSES WITH**

**PREJUDICE** Plaintiff's claims against the University of Texas Medical Branch ("UTMB"), as barred by the Eleventh Amendment.

Further, the Court **DISMISSES WITH PREJUDICE** Plaintiff's ADA/RA claims against the TDCJ pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b)(1); and **DISMISSES WITH PREJUDICE** Plaintiff's § 1983 claims against Warden Phillip Sifuentes, Senior Medical Practice Manager Tanya Lawson, TDCJ Executive Director Bryan Collier, and Assistant Warden Daniel P. Fernandez pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b)(1).

Final judgment will be entered separately.

SIGNED this 8th day of August, 2019.

A handwritten signature in black ink, appearing to read "Hilda Tagle", is written over a horizontal line.

Hilda Tagle  
Senior United States District Judge